

***Overview of Major New Mexico Taxes***

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Senate Finance Committee**

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## **Major New Mexico Tax Collections**

- **The following table provides data on actual collections of major New Mexico taxes for the eleven-year period, FY 1998 – FY 2008, and forecast collections for the five-year period, FY 2009 – FY2013**
  - **The taxes included are all State and local taxes collected by TRD plus the property tax**
  - **Excluded are non-property taxes that are not collected by TRD**
  - **Forecast amounts are consistent with the current General Fund consensus revenue estimates, but include forecasts of non-General Fund taxes that are not part of the consensus revenue estimates**
- **The first bank of data is net actual or projected collections (in millions) over the period**
  - **Total tax collections rose over the historical period from \$4.3 billion to \$8.1 billion, an increase of over 86 percent**
    - **Over the next five years, total collections are forecast to increase to \$8.8 billion, an increase of something less than 9 percent over the FY 2008 level**
- **The second bank of data in the table shows the percent distribution of the major taxes**
  - **The share of oil and gas taxes rose significantly, from 8.7 to 15.4 percent historically, but the share is forecast to decline to 10.5 percent by FY 2013**
  - **The gross receipts tax share was unchanged historically, but is forecast to increase over the next five years**
- **The third bank of data shows each major tax as a percent of personal income**

- **Personal income grew a little slower than total tax collections over the historical period (77 percent vs. 86 percent), so total taxes as a percent of personal income rose, from 12.1 percent to 12.7 percent**
- **Over the next five years, total tax collections are forecast to decline slightly relative to personal income**
- **Over the next five years, no major tax source is forecast to grow faster than personal income**
- **Collections of each major tax as a percent of personal income are shown in the chart following the table**

**Major New Mexico Taxes, Actual FY 1998 - FY 2008 and Forecast FY 2009 - FY 2013**

	<b>Actual Collections</b>										<b>Forecast Collections<sup>1</sup></b>					
	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
	<i>Net Collections (in millions)</i>															
Gross Receipts Taxes <sup>2</sup>	1.809	1.868	1.931	2.097	2.150	2.262	2.408	2.643	2.997	3.269	3.367	3.484	3.523	3.627	3.778	3.953
Selective Excise Taxes <sup>3</sup>	392	397	418	419	439	463	520	548	573	594	582	583	584	596	604	613
Personal Income Tax	800	808	881	911	1,032	942	1,031	1,106	1,038	1,164	1,214	1,214	1,230	1,260	1,320	1,380
Corporate Income Tax	180	164	166	220	142	103	142	251	383	461	355	293	275	290	310	340
Oil and Gas Taxes <sup>4</sup>	377	271	412	773	505	564	765	941	1,190	1,049	1,242	853	689	826	895	918
All Other TRD Taxes <sup>5</sup>	224	243	233	231	226	232	219	254	282	307	294	296	299	299	304	312
Property Taxes <sup>6</sup>	546	578	634	676	743	735	817	840	910	982	1,002	1,049	1,096	1,142	1,189	1,237
<b>Total<sup>7</sup></b>	<b>4,328</b>	<b>4,329</b>	<b>4,675</b>	<b>5,326</b>	<b>5,236</b>	<b>5,300</b>	<b>5,902</b>	<b>6,584</b>	<b>7,374</b>	<b>7,825</b>	<b>8,055</b>	<b>7,771</b>	<b>7,696</b>	<b>8,040</b>	<b>8,401</b>	<b>8,753</b>

	<i>Percent Distribution</i>															
Gross Receipts Taxes	41.8	43.2	41.3	39.4	41.1	42.7	40.8	40.1	40.6	41.8	41.8	44.8	45.8	45.1	45.0	45.2
Selective Excise Taxes	9.1	9.2	8.9	7.9	8.4	8.7	8.8	8.3	7.8	7.6	7.2	7.5	7.6	7.4	7.2	7.0
Personal Income Tax	18.5	18.7	18.8	17.1	19.7	17.8	17.5	16.8	14.1	14.9	15.1	15.6	16.0	15.7	15.7	15.8
Corporate Income Tax	4.2	3.8	3.5	4.1	2.7	1.9	2.4	3.8	5.2	5.9	4.4	3.8	3.6	3.6	3.7	3.9
Oil and Gas Taxes	8.7	6.3	8.8	14.5	9.6	10.6	13.0	14.3	16.1	13.4	15.4	11.0	9.0	10.3	10.7	10.5
All Other TRD Taxes	5.2	5.6	5.0	4.3	4.3	4.4	3.7	3.9	3.8	3.9	3.7	3.8	3.9	3.7	3.6	3.6
Property Taxes	12.6	13.4	13.6	12.7	14.2	13.9	13.8	12.8	12.3	12.5	12.4	13.5	14.2	14.2	14.2	14.1
<b>Total</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>

	<i>Percent of NM Personal Income</i>															
Gross Receipts Taxes	5.1	5.0	4.9	5.0	4.8	5.0	5.0	5.1	5.4	5.5	5.3	5.2	5.2	5.3	5.3	5.2
Selective Excise Taxes	1.1	1.1	1.1	1.0	1.0	1.0	1.1	1.0	1.0	1.0	0.9	0.9	0.9	0.9	0.8	0.8
Personal Income Tax	2.2	2.2	2.2	2.2	2.3	2.1	2.1	2.1	1.9	2.0	1.9	1.8	1.8	1.8	1.8	1.8
Corporate Income Tax	0.5	0.4	0.4	0.5	0.3	0.2	0.3	0.5	0.7	0.8	0.6	0.4	0.4	0.4	0.4	0.5
Oil and Gas Taxes	1.1	0.7	1.1	1.8	1.1	1.2	1.6	1.8	2.1	1.8	2.0	1.3	1.0	1.2	1.2	1.2
All Other TRD Taxes	0.6	0.7	0.6	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.4	0.4	0.4	0.4	0.4
Property Taxes	1.5	1.6	1.6	1.6	1.7	1.6	1.7	1.6	1.6	1.6	1.6	1.6	1.6	1.7	1.7	1.6
<b>Total</b>	<b>12.1</b>	<b>11.6</b>	<b>11.9</b>	<b>12.6</b>	<b>11.7</b>	<b>11.6</b>	<b>12.1</b>	<b>12.6</b>	<b>13.2</b>	<b>13.1</b>	<b>12.7</b>	<b>11.7</b>	<b>11.5</b>	<b>11.7</b>	<b>11.7</b>	<b>11.6</b>

<b>NM Personal Income</b>	<b>35,805</b>	<b>37,244</b>	<b>39,160</b>	<b>42,204</b>	<b>44,670</b>	<b>45,638</b>	<b>48,579</b>	<b>52,261</b>	<b>55,753</b>	<b>59,641</b>	<b>63,219</b>	<b>66,570</b>	<b>67,103</b>	<b>68,713</b>	<b>71,874</b>	<b>75,396</b>
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Footnotes appear on following page.

### **Footnotes to Table**

<sup>1</sup> Forecasts values are based on General Fund or other official forecasts whenever possible. In cases where no official forecast exists, for example property taxes, forecast figures were derived using various types of trend analysis, e.g., simple linear regression.

<sup>2</sup> Includes the gross receipts tax, compensating tax, governmental gross receipts tax, leased vehicle gross receipts tax, leased vehicle surcharge, interstate telecommunications gross receipts tax, and the telecommunications surcharges.

<sup>3</sup> Includes the liquor excise, local liquor excise, cigarette tax, tobacco products tax, gasoline tax, special fuels tax, petroleum products loading fee, motor vehicle excise, and gaming taxes.

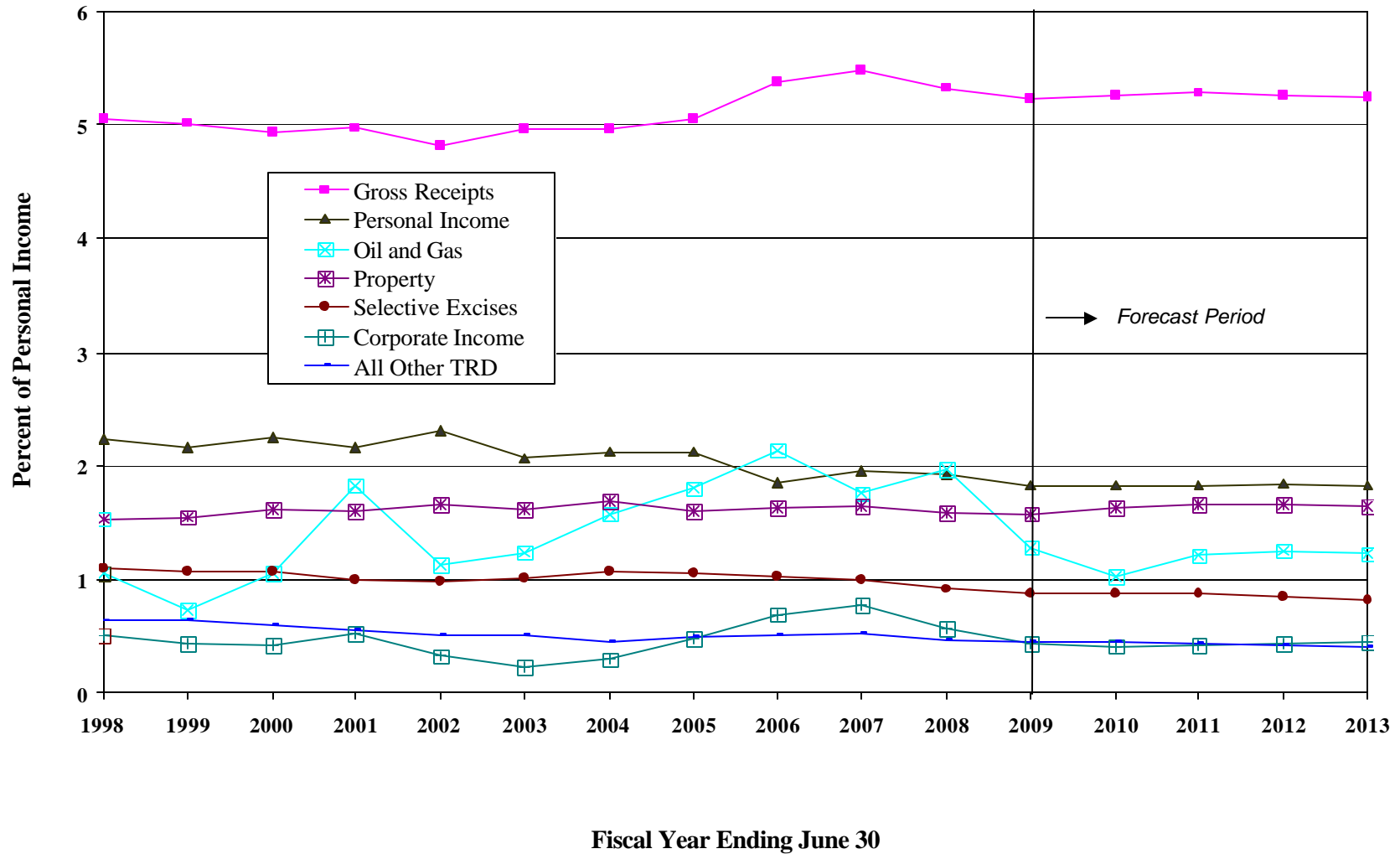
<sup>4</sup> Includes the oil and gas emergency school tax, oil and gas severance tax, oil and gas conservation tax, natural gas processors tax, oil and gas ad valorem production tax, and the oil and gas production equipment ad valorem tax.

<sup>5</sup> Includes the estate tax, severance tax, resources excise tax, copper production ad valorem tax, trip tax, special permits, weight-distance tax, motor vehicle taxes and fees, workers' compensation fee, water conservation fee, and unclaimed property.

<sup>6</sup> Excludes oil and gas ad valorem taxes.

<sup>7</sup> Total excludes state and local taxes other than the property tax that are not collected by TRD.

# **Major New Mexico Taxes as a Percent of Personal Income** **Actual FY 1998 - FY 2008 and Forecast FY 2009 - FY 2013**



### **More Detail On Gross Receipts Taxes**

- **The following table and graph provides a breakout of the gross receipts tax figures provided above into the following components:**
  - **The total collections from the State GRT**
  - **The State GRT distributed to State funds (primarily the General Fund)**
  - **The State GRT distributed to municipalities (1.225 percent)**
  - **The State GRT distributed to municipalities and counties under the food and medical hold harmless provisions**
  - **Collections from local option GRTs**
  - **All other GRT taxes (compensating, governmental GRT, etc.)**
- **The major patterns are:**
  - **The State GRT share of total GRT collections has declined and is forecast to continue to decline, while the local option GRT share has risen**
  - **The share of the State GRT distributed to State funds has slowly declined and is forecast to continue to slowly decline, while the remaining share, distributions to local governments from the State GRT, have slowly risen**

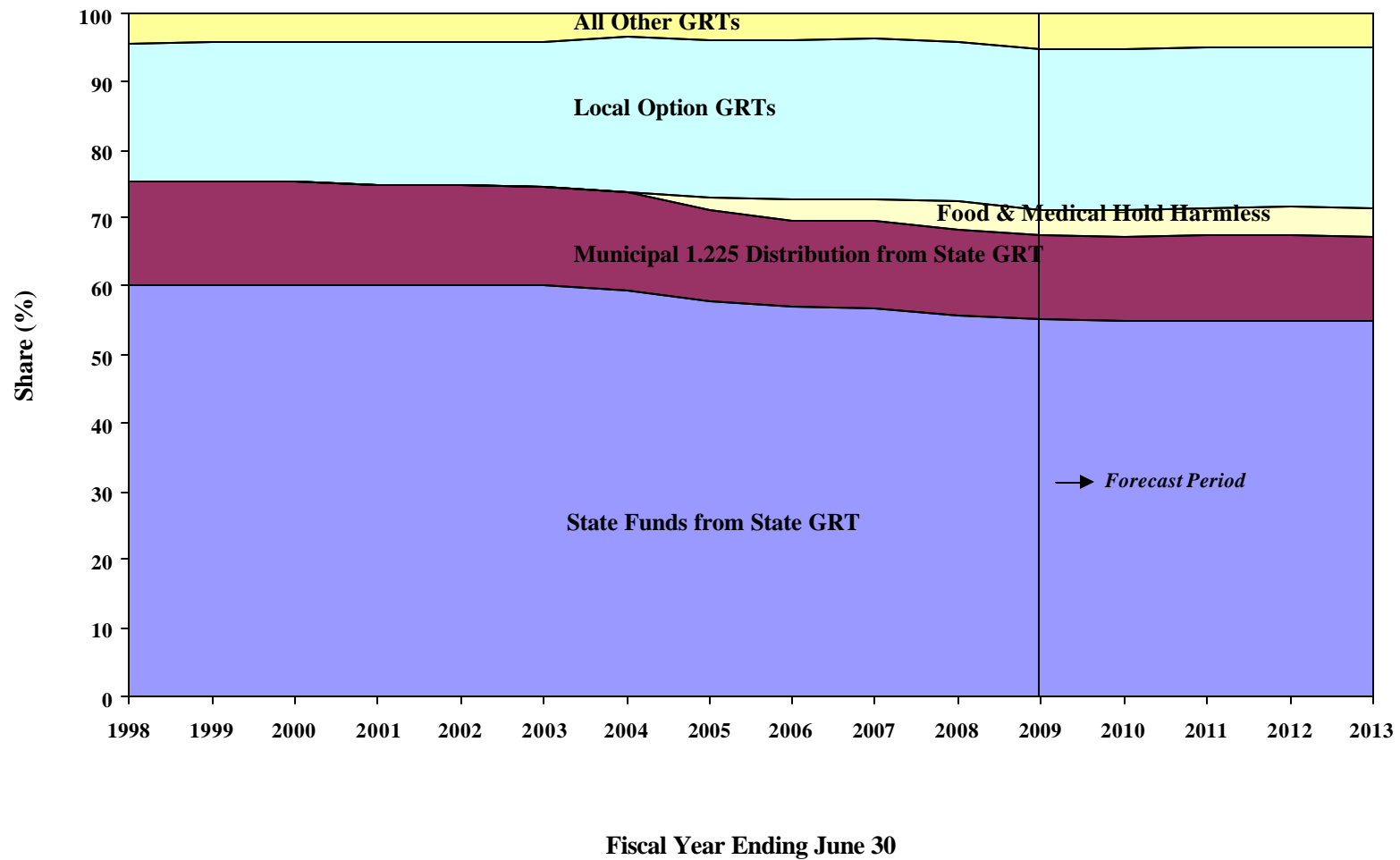
**Gross Receipts Taxes, Actual FY 1998 - FY 2008 and Forecast FY 2009 - FY 2013**

	<b>Actual Collections</b>										<b>Forecast Collections</b>					
	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
	<i>Net Collections (in millions)</i>															
<b>State GRT, Total</b>	1,360	1,404	1,454	1,569	1,606	1,684	1,776	1,928	2,181	2,375	2,435	2,483	2,507	2,592	2,707	2,828
<b>State Funds</b>	1,092	1,128	1,165	1,265	1,294	1,359	1,431	1,528	1,707	1,856	1,881	1,923	1,933	1,993	2,078	2,168
<b>Municipal 1.225</b>	267	276	289	303	313	325	345	358	380	419	419	432	437	452	471	491
<b>Food &amp; Medical HH</b>	0	0	0	0	0	0	0	43	94	101	135	128	137	147	158	170
<b>Local Option GRTs</b>	370	386	396	441	456	484	549	610	697	768	788	813	822	850	886	923
<b>All Other</b>	79	78	81	87	88	95	83	105	119	126	144	187	193	185	186	201
<b>Total</b> <sup>7</sup>	<b>1,809</b>	<b>1,868</b>	<b>1,931</b>	<b>2,097</b>	<b>2,150</b>	<b>2,262</b>	<b>2,408</b>	<b>2,643</b>	<b>2,997</b>	<b>3,269</b>	<b>3,367</b>	<b>3,484</b>	<b>3,523</b>	<b>3,627</b>	<b>3,778</b>	<b>3,953</b>
	<i>Percent Distribution</i>															
<b>State GRT, Total</b>	75.2	75.2	75.3	74.8	74.7	74.4	73.8	73.0	72.8	72.7	72.3	71.3	71.2	71.5	71.6	71.5
<b>State Funds</b>	60.4	60.4	60.3	60.3	60.2	60.1	59.4	57.8	57.0	56.8	55.9	55.2	54.9	55.0	55.0	54.8
<b>Municipal 1.225</b>	14.8	14.8	15.0	14.5	14.5	14.4	14.3	13.5	12.7	12.8	12.4	12.4	12.4	12.5	12.5	12.4
<b>Food &amp; Medical HH</b>	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.6	3.1	3.1	4.0	3.7	3.9	4.1	4.2	4.3
<b>Local Option GRTs</b>	20.4	20.6	20.5	21.0	21.2	21.4	22.8	23.1	23.3	23.5	23.4	23.3	23.3	23.4	23.4	23.4
<b>All Other</b>	4.4	4.2	4.2	4.2	4.1	4.2	3.4	4.0	4.0	3.9	4.3	5.4	5.5	5.1	4.9	5.1
<b>Total</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>
	<i>Percent of NM Personal Income</i>															
<b>State GRT, Total</b>	3.8	3.8	3.7	3.7	3.6	3.7	3.7	3.7	3.9	4.0	3.9	3.7	3.7	3.8	3.8	3.8
<b>State Funds</b>	3.1	3.0	3.0	3.0	2.9	3.0	2.9	2.9	3.1	3.1	3.0	2.9	2.9	2.9	2.9	2.9
<b>Municipal 1.225</b>	0.7	0.7	0.7	0.7	0.7	0.7	0.7	0.7	0.7	0.7	0.7	0.6	0.7	0.7	0.7	0.7
<b>Food &amp; Medical HH</b>	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2
<b>Local Option GRTs</b>	1.0	1.0	1.0	1.0	1.0	1.1	1.1	1.2	1.3	1.3	1.2	1.2	1.2	1.2	1.2	1.2
<b>All Other</b>	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.3	0.3	0.3	0.3	0.3
<b>Total</b>	<b>5.1</b>	<b>5.0</b>	<b>4.9</b>	<b>5.0</b>	<b>4.8</b>	<b>5.0</b>	<b>5.0</b>	<b>5.1</b>	<b>5.4</b>	<b>5.5</b>	<b>5.3</b>	<b>5.2</b>	<b>5.2</b>	<b>5.3</b>	<b>5.3</b>	<b>5.2</b>
<b>NM Personal Income</b>	35,805	37,244	39,160	42,204	44,670	45,638	48,579	52,261	55,753	59,641	63,219	66,570	67,103	68,713	71,874	75,396
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# **Shares of Gross Receipts Tax Collections** **Actual FY 1998 - FY 2008 and Forecast FY 2009 - FY 2013**



# **Gross Receipts Tax**

## **General Description**

**New Mexico's gross receipts tax is imposed on the gross receipts of persons engaging in business in New Mexico with receipts from:**

- **the sale property in New Mexico;**
- **the lease or licensing of property employed in New Mexico;**
- **granting a right to use a franchise employed in New Mexico;**
- **selling services performed outside New Mexico, the product of which is initially used in New Mexico (research & development); or**
- **performing services in New Mexico.**

**Exemptions: receipts from wages, dividends and interest, and isolated and occasional transactions.**

## **Taxability of Receipts to the Final Consumer**

- **Individuals - Receipts from sale to an individual end user will generally be subject to gross receipts tax with the exception of the following deductions:**
  - **receipts from the sale of food;**
  - **receipts from the provision of most medical services and prescription drugs;**  
**and**
  - **receipts from the sale of gasoline and motor vehicles (subject to separate taxes)**
- **Governments & Non-profits**
  - **Receipts from the performance of services for the government or a 501(c)(3) organization will be subject to gross receipts tax;**
  - **Receipts from the sale of tangible personal property to the government or a 501(c)(3) organization will be deductible;**

- **Business to Business - Receipts from sales to other businesses may qualify for various resale deductions created to address pyramiding, the following are some examples:**
  - **Services for resale**
  - **Construction services and materials incorporated into a construction project**
  - **Manufacturing services performed on a manufactured product and materials incorporated into a manufactured product**

## **Personal Income Tax**

- **Taxable income is computed under current law as follows:**

**Start with federal AGI**

**+ NM additions (e.g., interest on federally tax-exempt bonds)**

**- Federal standard or itemized deductions**

**- Federal personal exemption amount**

**- NM low- and middle-income exemption**

**- NM subtractions (e.g., interest on NM state and local bonds, capital gains)**

**- NM uncompensated medical care deduction**

**= NM taxable income**

- **Tax liability is then computed at graduated rates that range from 1.7% to 4.9%.**
- **Tax credits and rebates are then computed and subtracted from tax liability.**
  - **Most credits are nonrefundable.**
  - **Refundable rebates and credits (except the Working Families Tax Credit) are based on “Modified Gross Income” (MGI).**
- **Withholding and estimated payments are applied.**
- **Taxpayers compute their tax due or refund.**

# **Corporate Income Tax**

## **Entities Subject to Tax**

- **Corporations**
- **Other entities taxed as corporations under the federal income tax**
  - **Certain partnerships, LLCs, Subchapter S corporations, trusts**
- **Excluded are:**
  - **Insurance companies subject to premiums tax**
  - **Non-profit corporations (unless they have UBIT)**
  - **Pension trusts**
  - **Rural electric cooperatives**
  - **Other business entities (pass-throughs, sole props, estates and most trusts) taxed at individual rates**

## **Nexus**

- **To be subject to tax by New Mexico, entity must:**
  - **Be employed or engaged in the transaction of business in, into or from New Mexico, or**
  - **Derive any income from any property or employment within New Mexico**

## **Taxable Income**

- **Taxable income as defined for federal income tax purposes, with certain additions and subtractions**
- **Additions:**
  - **Interest on non-New Mexico state and local bonds**
  - **Federal NOLs ( 3 year carryback, 20 year carryforward)**
- **Subtractions:**
  - **Interest on federal bonds (and New Mexico state and local bonds subject to federal income tax)**
  - **State NOLs (no carryback, 5 year carryforward)**
  - **Dividends from foreign corporations (including “gross-up”; percentage based on ownership)**

## **Reporting Methods**

- **Separate Corporate Entity (SCE)**
  - **This is the default reporting method, unless taxpayer elects combined or consolidated**

- **Combined**
  - Can be elected by “unitary” corporations
  - Once elected, taxpayer cannot file as SCE without permission from the Secretary of TRD
- **Consolidated**
  - Follows federal rules (requires 80% ownership by common parent)
  - Once elected, taxpayer cannot file as SCE or combined without permission from the Secretary of TRD

### **Allocation and Apportionment**

- Corporations with income from sources outside New Mexico must allocate and apportion their income to New Mexico and non-New Mexico sources
  - New Mexico’s rules follow the Uniform Division of Income for Tax Purposes Act (UDITPA)
- Allocation is used to assign the source of “non-business” income
- Apportionment is used to assign the source of business income
  - Apportionment is generally by a 3-factor formula based on property, payroll, and sales
  - Each factor is the ratio of the New Mexico amount to the total amount for the taxpayer, and the three ratios are then added and divided by 3 to get the apportionment percentage
    - Until 2011, manufacturers can elect to use a 4-factor formula that double weights the sales factor
  - Property is the original cost of real and tangible personal property owned or rented, sited where used
  - Payroll is total compensation paid to employees, sited generally to where the employee works
  - Sales are the total receipts from transactions and activities in the regular course of a taxpayer’s trade or business

### **Tax Liability**

- Corporate income tax is imposed at three rates:
  - 4.8% for net income of \$500,000 or less;
  - 6.4% of net income between \$500,000 and \$1,000,000; and
  - 7.6% of net income over \$1,000,000
  - New Mexico has the 21<sup>st</sup> highest top corporate income tax rate

- Rates are applied to the taxpayer's total net income, and that tax is prorated based on the taxpayer's total (business and non-business) New Mexico net income
- Credits reduce tax liability
- Corporate franchise tax also applies
  - Franchise tax is \$50 per year per corporation
  - Applies to all corporations subject to corporate income tax and to corporations not engaged in an active business but having or excising their corporate franchise in New Mexico

#### **Tax Filing and Payment**

- Liability is paid in quarterly estimated payments (excluding the 1<sup>st</sup> quarter) and with the corporate income tax return
- Return is due on 15<sup>th</sup> of the third month following the end of the corporation's fiscal year
  - Automatic extensions are granted with federal extensions, and TRD can grant extensions
- Corporations with non-New Mexico income file special schedules to allocate and apportion their income

## Oil and Gas Taxes

The following tables provide data on base rates for all taxes on oil and natural gas:

Taxes on Oil	Net Price of Oil (\$/bbl)		
	Under \$15	\$15 to \$18	Over \$18
Oil and Gas Emergency School Tax <sup>1</sup>	1.58%	2.36%	3.15%
Oil and Gas Severance Tax <sup>2</sup>	1.88%	2.81%	3.75%
<b>Subtotal</b>	<b>3.46%</b>	<b>5.17%</b>	<b>6.90%</b>
Oil and Gas Conservation Tax	0.19%	0.19%	0.19%
Production Ad Valorem Tax	1.04%	1.04%	1.04%
Production Equipment Ad Valorem Tax	0.14%	0.14%	0.14%
<b>Total</b>	<b>4.83%</b>	<b>6.54%</b>	<b>8.27%</b>

(1) 2.36% for stripper wells if taxable value of oil is between \$15 and \$18/barrel; 1.58% if less than \$15/barrel.

(2) 2.81% from stripper wells if taxable value of oil is between \$15 and \$18/barrel; 2.45% removed from well workover projects if average annual price of WTI is less than \$24/barrel; 1.88% if WTI less than \$15/barrel.

Taxes on Natural Gas	Net Price of Natural Gas (\$/mcf)		
	Under \$1.15	\$1.15 to \$1.35	Over \$1.35
Oil and Gas Emergency School Tax <sup>1</sup>	2.00%	3.00%	4.00%
Oil and Gas Severance Tax <sup>2</sup>	1.88%	2.81%	3.75%
<b>Subtotal</b>	<b>3.88%</b>	<b>5.81%</b>	<b>7.75%</b>
Oil and Gas Conservation Tax	0.19%	0.19%	0.19%
Production Ad Valorem Tax	0.88%	0.88%	0.88%
Production Equipment Ad Valorem Tax	0.15%	0.15%	0.15%
<b>Total</b>	<b>5.10%</b>	<b>7.03%</b>	<b>8.97%</b>

(1) 3% for stripper wells if taxable value is between \$1.15 and \$1.35/mcf; 2% if average annual price of WTI is less than \$24/barrel.

(2) 2.81% for stripper wells if taxable value is between \$1.15 and \$1.35/mcf; 2.45% if average annual price of WTI is less than \$24/barrel; 1.88% if taxable value is less than \$1.15.



- **Deductions allowed for state, federal and Indian royalties and trucking expenses.**
- **In FY 2008, deductions for oil averaged 10.21%; for natural gas 19.18%.**
- **Distribution of Oil and Natural Gas Taxes**
  - **Emergency school tax**
    - **After deposit in the Extraction Taxes Suspense Fund, revenues are distributed monthly to the General Fund.**
  - **Severance tax**
    - **After deposit in the Extraction Taxes Suspense Fund, revenues are distributed monthly to the Severance Tax Bonding Fund.**
  - **Conservation tax**
    - **When the tax rate is 0.19%, 10.5263% of net receipts are distributed to the Oil and Gas Reclamation Fund after deposit in the Extraction Taxes Suspense Fund.**
    - **When the tax rate is 0.18%, 5.55% of net receipts are distributed to the Oil and Gas Reclamation Fund after deposit in the Extraction Taxes Suspense Fund.**
  - **Ad Valorem production tax**
    - **After deposit in the Extraction Taxes Suspense Fund, revenues are transferred to the Oil and Gas Production Tax Fund and distributed to state and county treasurers.**
    - **Any balance remaining in the Extraction Taxes Suspense Fund at the end of the month after disbursement to the Severance Tax Bonding Fund is transferred to the General Fund.**

- **Ad Valorem production equipment tax**
  - **After deposit in the Extraction Taxes Suspense Fund, revenues are transferred to the Oil and Gas Equipment Tax Fund and distributed to state and county treasurers.**
  - **Any balance remaining in the Extraction Taxes Suspense Fund at the end of the month after disbursement to the Severance Tax Bonding Fund is transferred to the General Fund.**
- **Natural gas processors tax**
  - **After deposit in the Extraction Taxes Suspense Fund, revenues are distributed monthly to the General Fund.**